

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 123-128, 130, 133-143, 145, 146, 151-155, 157-159, 166 and 216 are pending in the application, with claim 123 being the sole independent claim. Claims 1-122, 129, 131, 132, 144, 147-150, 156, 160-165, and 167-215 are sought to be canceled without prejudice to or disclaimer of the subject matter therein. Claims 123-128, 130, 133-143, 145, 146, 151-155, 157-159, and 166 are sought to be amended. Claim 216 has been added. Support for the amendments and the new claim is found, *inter alia*, at paragraphs [0079], [0089], and [0093], in Table 1, and throughout the specification and claims as filed. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendments and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 112

Claims 84, 119, 121, 164, 165, and 210-215 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors had possession of the claimed invention at the time the application was filed and because the specification allegedly does not reasonably provide enablement commensurate in scope with the claimed invention. *See* Office Action mailed September 30, 2005, at pages 2-6. Applicants respectfully traverse these rejections.

Applicants believe that the application as filed provides adequate written description such that one of ordinary skill in the art would know that Applicants had possession of the claimed invention at the time the application was filed, and that the claimed invention is enabled according to its full scope such that one of ordinary skill in the art could practice the invention without undue experimentation. Nevertheless, without acquiescing in the Examiner's rejection, and solely in an effort to advance prosecution, Applicants have canceled claims 84, 119, 121, 164, 165, and 210-215 without prejudice and reserve the right to pursue the subject matter of all the canceled claims in one or more continuing applications. Accordingly, the rejections of claims 84, 119, 121, 164, 165, and 210-215 under 35 U.S.C. § 112, first paragraph have been rendered moot, and Applicants respectfully request that the rejections be withdrawn.

Claims 84, 119, 121, 164, and 210-215 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. *See* Office Action mailed September 30, 2005, at pages 7-8. Applicants respectfully traverse this rejection.

Applicants believe that the claims as presented, when read in light of the specification, would reasonably apprise one skilled in the art of the metes and bounds of the claimed invention. Nevertheless, without acquiescing in the Examiner's rejection, and solely in an effort to advance prosecution, Applicants have canceled claims 84, 119, 121, 164, and 210-215 without prejudice and reserve the right to pursue the subject matter of all the canceled claims in one or more continuing applications. Accordingly, the rejection of claims 84, 119, 121, 164, and 210-215 under 35 U.S.C. § 112, second

paragraph, has been rendered moot, and Applicants respectfully request that the rejection be withdrawn.

Rejections under 35 U.S.C. § 102

Claims 84, 119, 121, 164, 165, and 210-215 have been rejected under 35 U.S.C. § 102 (e), first paragraph, as allegedly being anticipated by U.S. Pat. Appl. Publication No. US2002/0052308A1. *See* Office Action mailed September 30, 2005, at page 8. Applicants respectfully traverse this rejection.

Applicants respectfully maintain that the cited reference does not teach the claimed invention. Nevertheless, without acquiescing in the Examiner's rejection, and solely in an effort to advance prosecution, Applicants have canceled claims 84, 119, 121, 164, and 210-215 without prejudice and reserve the right to pursue the subject matter of all the canceled claims in one or more continuing applications. Accordingly, the rejection of claims 84, 119, 121, 164, and 210-215 under 35 U.S.C. § 102 (e) has been rendered moot, and Applicants respectfully request that the rejection be withdrawn.

Allowable Subject Matter

At page 9 of the Office Action mailed September 30, 2005, the Examiner indicated that Claim 123, as it reads on species nn., amino acids I-105 to V-113 of SEQ ID NO:2 (*see* Election of Species Requirement, Paper No. 20, at page 3), claim 158, and claim 166 are allowed.

Applicants thank the Examiner for her helpful comments in a telephone discussion with Applicants' representative. Solely in an effort to facilitate prosecution,

and not in acquiescence to any rejection made by the Examiner, claim 123 is amended to recite "[A] composition comprising one or more isolated C35 peptides consisting of an epitope selected from the group consisting of . . .," thereby making explicit that which was at least implicit. Applicants have also amended claims 124-128, 130, 133-143, 145, 146, 151-155, 157-159, and 166 in accordance with the amendment to claim 123.

Applicants respectfully point out that claim 123 is a Markush-type claim.

According to the MPEP:

[a] Markush-type claim can include independent and distinct inventions.
... In applications containing a Markush-type claim that encompasses at least two independent or distinct inventions, the examiner *may* require a provisional election of a single species prior to examination on the merits.
... [S]hould no prior art be found that anticipates or renders obvious the elected species, the search of the Markush-type claim *will be extended*.

MPEP § 803.02 (8th ed., Rev. 3, August 2005) (emphasis added). Therefore, Applicants respectfully submit that examination of the additional species of C35 epitopes recited in the Markush group of claim 123 is proper. Applicants also respectfully request that claims 124-128, 130, 133-143, 145, 146, 151-155, 157, and 159, which were withdrawn from consideration as being drawn to non-elected species, be rejoined for consideration in the present application.

At the very least, the isolated C35 peptide epitopes selected from the group consisting of amino acids K-104 to V-113 of SEQ ID NO:2 and amino acids I-105 to I-114 of SEQ ID NO:2, as recited in claim 123 and dependent claims 157, 159, and 166, should be allowed because they overlap with the sequence of the elected species (i.e., amino acids K-105 to V-113 of SEQ ID NO:2) that was found to be allowable.

Thus, solely in an effort to advance prosecution and for the Examiner's convenience, and not in acquiescence to any of the outstanding rejections, Applicants have added dependent claim 216, which recites that the isolated C35 peptide epitope is selected from the group consisting of amino acids K-104 to V-113 of SEQ ID NO:2, amino acids I-105 to V-113 of SEQ ID NO:2, and amino acids I-105 to I-114 of SEQ ID NO:2. Should the Examiner find claim 216 to be allowable, Applicants will amend the claims to make claim 216 an independent claim, and to make claims 157-159 and 166 dependent therefrom. Alternatively, the Examiner could do so by Examiner's Amendment. Applicants reserve the right to pursue the subject matter of any and all canceled claims in one or more continuing applications.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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